THE

RECONSTRUCTIONIST

DEDICATED TO THE ADVANCEMENT OF JUDAISM AS A RELIGIOUS CIVILIZATION, TO THE UPBUILDING OF ISRAEL'S ANCIENT HOMELAND, AND TO THE FURTHERANCE OF UNIVERSAL FREEDOM, JUSTICE AND PEACE.

Vol. IV. January 13, 1939 Tebet 22, 5699 No. 18

Editorials

WHO IS TO REPRESENT THE ARABS AT THE CONFERENCE?

PROFESSION, TRADE OR RACKET?

The Modern Bet Din

By WILLIAM I. BOXERMAN

A Book on the Jewish Festivals

By BEN M. EDIDIN

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EDITORIALS

Who is to Represent the Arabs at the Conference?

ARE the Mufti and his terrorist henchmen to be invited to the Round-Table Conference? In the original memorandum submitted by England in which notice was given that a Round-Table Conference between Jews and Arabs on Palestine was to be called, it was explicitly stated by His Majesty's Government that neither the Mufti nor any of his aides and associates in the terrorist activities in Palestine would be invited to the Conference. As the one who is largely responsible for the continued reign of terror in Palestine, the Mufti stands condemned as an outlaw and a gangster, who has criminally shed innocent blood in defiance of authority and law and of human decency. To negotiate with such a man is to give aid and encouragement to those who use gangsterism and murder, kidnapping and highway robbery to force a settlement of the problem of Palestine on their own terms. The desire of Britain to exclude the Mufti from the Round-Table Conference is certainly warranted.

Lately, however, there seem to be indications that England is having a change of heart, and that she is seriously considering inviting some of the trusted henchmen of the Mufti, if not the Mufti himself, to the Round-Table Conference. Some of the Mufti's associates in crime, who have been spending their days safely and comfortably in exile, away from danger, are being secretly released. The protests of the Mufti and his party and the renewal of terrorist activity seem to be having effect on Great Britain, and are weakening her spine. Suddenly England's ministers seem to have been reconverted to the view that, after all, the Mufti and his party represent the majority of the Arabs in Palestine, and if any lasting understanding is to be reached between Jews and Arabs, the Mufti will have to be a party to such an understanding or else it will be meaningless and ineffective. The great Arab patriot, Herbert Samuel, has given the Mufti such an excellent character reference that it makes those of us who refuse to sit at the same table with him appear boorish, unreasonable, and inhuman.

We must be on guard against the visions of a "seer" like Samuel, on whom Chamberlain has cast his spell, or else the Roun-Table Conference will become another Munich. *The Mufti does not represent the majority of the Arabs in Palestine.* The recent demonstrations of loyalty to Great Britain by the Arabs in Jerusalem and Hebron and their forceful protests against the terrorist activities of their own Arab brethren, should be indication enough that the Mufti and his gang of terrorists represent only a small minority

of the Arabs in Palestine. Who truly represents the majority we do not know. The truth is that the disinherited Arab masses have no real representatives of their own. We do not for a moment think the Nashashibi party represents the vast majority of Arabs, any more than does the Mufti's party. But if the Nashashibi party does not actually represent the Arab masses, in the democratic sense, it certainly is *representative* of the vast majority of peace-loving Arabs. We want an understanding with this vast majority of the Arabs, who are themselves terrorized by Arab brigands, who want peace as much as do the Jews and the English. We are ready to confer with them or those who represent them, and we are sure we can come to an understanding with them. But we cannot and we must not sit down at the same table with the Mufti or his delegated aides. He has forfeited all trust. No agreement, even if it has the Mufti's signature, would be worth the paper it is printed on, any more than promises made by Hitler and Mussolini are worth anything. The Zionist Organization must speak out in unmistakable terms that it will not come to any conference to which the Mufti or his henchmen will be invited. The time to speak is now.

Profession, Trade, or Racket?

THE Department of Justice's indictment of the American Medical Association under the laws prohibiting combinations "in restraint of trade" calls attention to a social ill that must be remedied. The indictment was occasioned by the action of the A.M.A. in denying the use of hospital facilities to a group of physicians in Washington who are interested in effecting a scheme for socialized medicine of which the A.M.A. disapproves. No question is raised as to the personal or professional qualifications of the physicians of this group, and the government, therefore, regards the arbitrary restriction of their opportunity to practice their profession under economic arrangements of which they and their patients approve as of the same character as business combinations designed to prevent fair competition. The defense of the A.M.A. is that medicine is a profession, not a trade, and that, therefore, it cannot come within the scope of legislation designed to prevent restraint of trade.

We are not concerned with the legal aspects of this case. We leave them to the courts. But the A.M.A.'s legal defense is a moral indictment. If medicine is truly a profession, then the chief interest of a medical association must be the public health and not the selfish advantage of any of its members. It is a well known fact that, under present conditions, the great majority of the American population do without necessary medical services because, without accepting charity and losing their self-respect, they cannot pay the price for such services. An immeasurable amount of disease could be prevented if people would seek medical treatment *in time,* but they defer such treatment until they are "seriously" ill, which often means until it is of no use at all. At the same time we are told that medicine is an overcrowded profession. Everything possible is done to discourage young men from taking it up as a career. As in all overcrowded professions, Jews are particularly discouraged. It is an open secret that an effective, though unavowed, *numerus clausus* against Jewish students exists in almost all of our medical colleges. What is happening is this: that a small percentage of highly paid physicians who control the A.M.A. are exploiting the scarcity value of skilled medical service and of the hospitalization facilities that they control in order to reap a rich economic harvest at the expense both of the nation's health and of the economic interests of the younger and less influential physicians and would-be physicians. The A.M.A. does not like American medicine to be considered a trade; do they want it to be considered a racket?

The mounting cost of scientific medicine, which, to be sure, cannot altogether

be laid at the door of the self-seeking policies of some of its practitioners, constitutes one of our major social problems. No proposed scheme of group medicine answers it adequately. Possibly the eventual solution may require governmental aid and, perhaps, compulsory health insurance. But all progressive forces should welcome experiments designed to bring the benefits of adequate health service to greater numbers than now enjoy them. Certainly physicians who seek to organize such services should not be penalized by any action on the part of an association that presumes to call itself the American Medical Association.

The Modern Bet Din

By WILLIAM I. BOXERMAN*

I

SEVERAL months ago, the Jewish Community Council of Detroit established a Jewish Arbitration and Conciliation Court. This represents the renascence in the Jewish community of an institution whose origin dates back many, many years. Both arbitration and conciliation have been common practices with the Jewish people since the *bet din* (Court of Justice) consisting of twenty-three members, functioned in the first century. During the Middle Ages, a scholar of standing needed no assistant for holding court, and the local rabbi was empowered to represent the *bet din* and settle disputes by himself. This still holds true today in many European countries. In larger communities, however, the *bet din* is composed of at least three members who daily hear controversies, with the local rabbi generally presiding. In this country several Jewish communities, including New York City, Baltimore, Cincinnati, and Cleveland, have created arbitration machinery. In setting up a similar communal service, Detroit was guided partly by all of these previous experiences.

Need for the Jewish Court

Perhaps never was the need greater for eliminating from the regular courts such controversies as tend to bring discredit upon the Jewish people as a whole than it is in our day. For with the rising tide of anti-Semitism, our defamers seize readily upon incidents which conform to their stereotypes of the Jew as an undesirable citizen. Recently, in a picture magazine which sold 400,000 copies, the non-Jewish editors listed a series of objectionable traits commonly ascribed to Jews. Unfortunately, many Jewish quarrels which end in the courts accentuate these unfavorable impressions of Jews. Two typical examples occurred in Detroit during the past year and might have been avoided, had a Jewish Court then been in existence. In one instance, the orthodox rabbis prosecuted a Jewish butcher accused of misrepresenting *trefah* meat to be kosher. The case was dragged into the criminal court where it was heard by a non-Jewish judge. The entire proceedings provided a source of much amusement and were described by the local newspapers in such a manner as to make a laughing stock of *kashrut,* Jewish religion, and Jewish people in general. Again, a Jewish *shohet* was being picketed by his employees for what they claimed to be unfair labor practices. This also made a good newspaper story. The daily spectacle of workers picketing a religious functionary did not have a salutary effect upon non-Jewish observers. Similar happenings could be cited in other Jewish communities.

Furthermore, a Jewish court meets other definite needs in the community. Often the problems presented should not come into the regular courts because they concern Jewish tradition, religious

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observances, etc., which cannot be understood easily by a non-Jewish judge or jury. In such situations, the Jewish litigant can express himself more readily and with greater probability of being understood in the familiar atmosphere of a Jewish court. The non-Jewish judge cannot comprehend the situation fully because he and the Jew do not live at all times in the same universe of discourse. Sometimes, too, the courts offer no relief for the aggrieved individual because the offense against him is not punishable under the law; whereas in the Jewish Court, which is not limited in its scope by the statutes, he may find a ready remedy.

Many domestic relations cases are of so delicate a nature that they cannot be aired in the legal courts. Jewish people seem to have a special dread of being stigmatized through the formal court procedure and decree, with the attendant publicity characterizing cases of this kind. But they have a feeling of privacy in the arbitration court, wherein no one, except those immediately concerned, need know the identity of the parties or the details of the proceedings.

The value of the Jewish court in providing an emotional outlet for individuals who feel themselves wronged should not be overlooked. The award actually entered in a case is sometimes not nearly so important to the client as the opportunity for expressing his feelings, for having himself declared right and vindicated before an impartial body. In the Jewish Court of Detroit a certain woman recently preferred charges against her sister, claiming that the latter, for whom she had provided a dowry, now refused to repay her. After the hearing, during which the plaintiff discussed many irrelevant details, she turned to the sole arbitrator and said in a tone of relief, "Now whether I get any money from her or not, I have talked myself out. For two years this has been eating my heart out. I thought I would go crazy and I had no one to whom I could explain things."

Because of the expense involved, many individuals with rightful claims cannot file suit in the established courts. A poor man with a claim of $150.00 against a second party (and such small claims are frequent) can hardly afford to engage a competent lawyer who will institute proceedings in court. The cost of the litigation in such a case would be prohibitive. Many clients cannot even advance the necessary attorneys fees. These claims, however, may be heard in the Jewish Court without charge.

Sources of Referral

Just how do cases reach the Jewish Court in Detroit? When the applicant first appears, he is questioned regarding the source of his referral. This is carefully noted; an analysis of these records proves quite interesting. Upon the establishment of the Court, it became necessary to notify the community that this new agency existed. The situation was peculiar. A court had to advertise for business!

Various media were employed. The local Jewish radio hour assisted with a number of broadcasts. A printed leaflet, outlining the method of procedure in both English and Yiddish, was distributed among the Jewish organizations in the city. The Jewish Community Council, under whose supervision the Court functions, has an affiliated membership of 175 groups, each of which receives a news letter periodically. References have appeared here from time to time. The local editions of the English and Yiddish papers have published case histories and this has been helpful. The following incident shows the power of the press in stimulating the use of arbitration. More than two months after a case summary was printed in a Yiddish newspaper, an elderly woman entered the office, clutching in her hand a clipping from this edition, and inquired, "Is this the place where quarrels are settled?"

In addition, the Jewish welfare society has several times sent clients to the Court with problems which do not fall within the province of case work. These could

not be handled by any other agency. One or two referrals have come from the legal courts, where a judge has felt that the dispute should not be aired in his jurisdiction. One such case had been dismissed by the presiding judge with the caustic comment that "we haven't time for this sort of thing. Go settle your family squabbles elsewhere." Lawyers who did not wish to appear in court with a dispute involving distinctly Jewish phases also have pleaded their cases before the Jewish Court.

Scope of the Jewish Court

A committee of fifteen people, appointed by the president of the Jewish Community Council, has general responsibility for the supervision of the Court. A subcommittee of three passes upon each case in which arbitration is sought. When a litigant presents himself at the office of the Jewish Community Council, he is interviewed by the director, who also serves as secretary of the Court. He tells his story briefly, giving only the salient facts, so that the committee can decide the advisability of acceptance.

Which cases fall within the scope or jurisdiction of the Court? Acceptance or rejection depends upon certain rules governing eligibility and the conduct of the Court. These are definite; usually no difference of opinion exists regarding their interpretation. To be eligible for arbitration, two conditions must be met: 1) the dispute must be a proper subject for arbitration within the meaning of the statutes of the State of Michigan; 2) at least one of the parties involved in the dispute must be a Jew or an organization consisting of Jews. These general rules have one exception: in a dispute involving the relationship of employer and employee, the Court can take no cognizance of the dispute unless "all of the parties thereto shall jointly agree to submit such request."

The reasoning back of this requires explanation. When the Court was still in the process of formation, the question of the role that it might play in the settlement of labor disputes evoked lengthy discussion. Labor elements felt very strongly that the Court might furnish to employers of striking workers, an opportunity for turning public opinion against the latter unfairly. The employers could offer to arbitrate a labor difficulty which they knew the strikers could win through continued striking and picketing. They could then advertise to the community that they had appealed for arbitration by the Jewish Court but that their employees had refused to settle. To avoid such a contingency, it was made mandatory that both parties apply jointly for arbitration.

Nature of Arbitration

Arbitration is essentially a voluntary process. Either one party desires it and the second party then consents, or both apply jointly for arbitration. However, there are cases in which a defendant is reluctant to appear before the Court. He may feel that he can ignore the summons from a court which cannot compel his attendance. For this reason, the rules of the Court state that "If less than all the parties to a dispute join or concur in such request (for arbitration) the committee may take such steps to procure the consent or concurrence of the remaining party or parties as the committee may deem advisable." This provision gives the Arbitration Committee much latitude in inducing an indifferent individual to arbitrate. These "steps to procure the consent" vary. Usually they consist only of a telephone call to the party who has ignored a written invitation that he join in settling the difference. Emphasis is laid upon the fact that the Court is under community auspices which he cannot afford to flout. In most instances the person responds favorably because of a fear that, if he did not, he might injure his standing in the community. Very few people like to incur the public censure of their fellow-men. Sometimes it is even advisable to suggest that refusal to arbitrate may be construed as an admission of guilt.

Recently, for example, a personal quar-

rel between two officers of a synagogue threatened to ruin the congregation. Members "took sides," and, on several occasions, the services were interrupted by fist fights. The man who considered himself wronged appealed to the Jewish Court. The aggressor, the president of the congregation himself, did not respond to a letter, and the writer thereupon contacted the rabbi of the congregation. The latter refused to inject himself into the situation, fearing that he might jeopardize his own position. He did agree to speak to the president about the possibility of arbitration. Finally, the latter came to the office of the Court, still unwilling to arbitrate and protesting vigorously his innocence of the charges against him. He was told that if he were guiltless (as he maintained) an arbitration would clear him whereas a continued resistance to it surely would damage his reputation in the community, for this would give his accuser an opportunity to tell the congregation that a guilty conscience had kept their president from composing his differences. When the man saw the matter in this light, he signed the arbitration agreement. The entire quarrel later was adjusted satisfactorily.

The rules of the Court encourage the solicitation of disputes which may become public scandals. This has reference to congregational quarrels, religious controversies, organizational differences, etc., all of which are prone to find their way into court and into the newspapers. Had no one asked for arbitration in the above-mentioned synagogue fracas, the Court justifiably could have forced itself into the situation.

Despite this provision, it still holds true that, on the whole, the essence of arbitration in the Jewish Court is its voluntary character. Sometimes it is difficult to explain this to people who seek the aid of the Court; for so eager are they to secure justice for themselves that they cannot see why the other party should not be forced to submit. "But isn't there some way you can make him come here and settle?" they ask. And one must emphasize that only he who has a deep sense of honor and feels bound by Jewish tradition will perceive the moral obligation to arbitrate. The following case shows that Jewish tradition still wields a powerful influence in effecting arbitration:

A son preferred charges of fraud against his aged father, who was connected with a religious institution. The father, a patriarchal figure with a long, flowing beard, responded at once to a letter from the Court. Although he denied that his son's claims had any merit whatsoever, he, nevertheless, signed the arbitration agreement without argument, remarking in Yiddish: "If you, who are a perfect stranger to me, were to come up to me and say that my coat is yours, and then wanted to drag me to a third party for establishing the real ownership, I should have to submit to your wishes. That is what every good Jew must do. I feel that I have no choice in this present matter."

Selection of Arbitrators

After a case has been accepted for arbitration and both parties have agreed to arbitrate, they are required to sign an arbitration agreement. This is in such a form as to make the decision of the arbitrators legally binding. It sets forth the nature of the controversy in a summary manner and without bias to either party. It states that they both agree to respect the award of the arbitrators, which has a legal effect, and upon which a judgment of the circuit court may be entered.

The litigants then choose their arbitrators. The Court for each case consists of three members selected from a Panel of Arbitrators appointed by the Arbitration Committee, "all of whom shall have indicated their willingness to act and to serve without compensation." At the present time, this Panel has eighty men, representing twenty different fields of occupation and ranging from common laborer to judge. This heterogeneity provides a complete cross-section of the community. In some disputes the arbitrators must have

a technical knowledge of a particular field of work.

Under ordinary circumstances, where there are only two litigants, each person chooses one arbitrator and the two thus selected decide upon a third man from the Panel. These three, after having been properly sworn, constitute the Court for that particular case. For the next case the Court may consist of three other people. Thus, over a period of time, most of the individuals on the Panel act in at least one case; no single person is overtaxed by being called to serve too often. Inasmuch as the arbitrators act without pay, it would be an imposition to utilize the same people over and over again. The rules provide that no arbitrator who has already served during the current year shall be named "unless his consent to act has previously been obtained." No litigant can justifiably say that he received a biased judgment, since he had the same opportunity as his opponent to choose one arbitrator, and the third member of the trio was chosen jointly. As a further precaution against bias, no arbitrator learns which party has selected him.

If both sides and the Arbitration Committee agree, a case may be heard by one arbitrator only. This works well in minor cases. On the other hand, the number of arbitrators may be increased. Where there are more than two parties to a dispute and they desire a Court of more than one arbitrator, the Arbitration Committee determines the method of appointment.

The Hearing

The controversy usually is heard within a week or two after the arbitrators have been selected, at a place convenient to all parties concerned. The procedure is informal; the arbitrators in each case may make and adopt their own rules. This individualized treatment has worked very satisfactorily. Litigants and their witnesses testify under oath; it has been found that the psychological effect of taking an oath is even more important when the rest of the proceedings takes place in an atmosphere of informality.

During the progress of the hearing, the arbitrators may interrupt as often as they wish in order to ask questions, to clarify points, or to elicit pertinent facts from the witnesses. At the beginning of the session, the arbitrators receive a paper on which appear only the names of the two parties and the general nature of their dispute. They therefore must obtain all the details from both sides. The people may speak either in English or Yiddish. Where this is indispensable to a proper understanding of the case, the arbitrators are chosen partly for their knowledge of Yiddish. This language still plays an important role in a community like Detroit, where fully one-fourth of the Jewish population claim it as a mother tongue. Since the hearing is not open to the general public, an individual need have no hesitation about discussing details which he would be reluctant to relate before outsiders.

The Court does not adhere to the rules of evidence. This adds to the informality. Hearsay evidence, unsupported statements, and beliefs, all of which are taboo in the legal courts, may be introduced. Lawyers may represent their clients before the Court, but the absence of legal "red tape" has sometimes proved annoying to them. In one hearing, an attorney could hardly control his wrath because the arbitrator repeatedly reminded him that he could not "object" to hearsay evidence. In the establishment of the Court there was no intention to dispense with the services of attorneys for certain kinds of cases. On the contrary, the hope was expressed that attorneys themselves would make more extensive use of arbitration, for they are in the most strategic position to do so.

The Award

At the conclusion of the hearing, the arbitrators may retire to deliberate upon the decision, which they may render at once. But, in the more involved cases, they may take several days in which to consider the testimony offered. The written award, which both winning and losing parties receive, states clearly and concisely

the reasons for the decision. In addition, both sides may receive the following complete material on the case, if they so desire: the agreement of submission to arbitration, which has been signed and notarized; a copy of the rules governing the Court; a copy of the arbitrators' oath (in which they have sworn to make "a just award to the best of their understanding"). The winner may record the written award in the proper court. Thereafter, if he must force collection of a monetary award, he may proceed in the same manner as though he had the decision of a judge or a jury in the legal courts.

Where a cash award has been stipulated, the secretary of the Court usually follows up the case to see whether the judgment has been performed. To date, every cash award has been or is being paid. Not always does a monetary award play the important role. In some situations, a reconciliation takes place between two warring factions as the result of a decision which made no provisions for the payment of money. In other cases, the entire controversy has centered around personal conflicts and misunderstandings which are totally unrelated to money. Here the cooling of passions and the termination of enmities may have resulted from the proceedings.

II

In order that the reader may have a concrete picture of the variety of controversies brought to the Jewish Court, four typical cases are here presented. The facts in these stories are correct, but for obvious reasons the names have been disguised.**

And Yosher Triumphed!

Rabbi Mendel Ashkenasi conducted the Mt. Scopus Hebrew School, which was located in a densely populated Jewish neighborhood. Although rich in Talmudic lore, the worthy *melamed* unfortunately was extremely poor in worldly goods. With difficulty did he manage to eke out a living for his wife and three children. His few pupils came from homes in economic straits and their scant fees barely served to keep the wolf from the door. Benevolent and easy-going by nature, the teacher had no inclination to press indigent parents for payment of tuition. Rather did he prefer to wait hopefully until such time as they paid him without coercion.

The Mt. Scopus Hebrew School possessed a pretentious name, but its quarters, consisting of one large room above a store, were not equally imposing. While the grocer on the floor below him dispensed physical sustenance to his customers, the rabbi on the floor above filled the souls of his pupils with spiritual sustenance. One day Rabbi Ashkenasi was notified that he must vacate the school room within three weeks. A Jewish society had agreed to pay a higher rental for its use as a clubroom. To the impecunious teacher this announcement represented a major tragedy, for he realized that he could neither pay higher rental nor find a new location quickly. Furthermore, it was nearing the end of the school term, and if he were forced to move to another neighborhood immediately, he would inevitably lose most of his pupils and tuition fees. His plea with the Gentile landlord for an extension of time fell upon deaf ears. What cared he for Ashkenasi? "The new tenants pay more," he said, "that is your worry, not mine." An appeal to the president of the Jewish organization proved equally of no avail. "Our stationery is already printed for the new address," he explained. "Besides, business is business."

The instructor was desperate as he saw his means of livelihood slipping from him.

**Technically speaking, the first case. "And *Yosher* Triumphed," is an example of conciliation, rather than of arbitration. It might be noted, in passing, that there is a fundamental distinction between the two terms. In arbitration cases the parties bind themselves beforehand to abide by the decision of the arbitrators. In conciliation cases, however, the parties carry out the decision of the conciliators only if they afterwards desire to do so. Both forms of settlement are available through the Jewish Court.

He did not succeed in finding quarters. And when his eviction was three days off, a new misfortune overtook him. His only brother died very suddenly and it was necessary for Ashkenasi to leave the city at once in order to attend the funeral. Again he pleaded with the landlord for a few days grace. The former was adamant. "If you do not remove your holy scrolls and other furnishings by the first of the month," he threatened, "you will find them in the street."

Ashkenasi brought his troubles before the Jewish Court. "Get me at least two months' extension," he asked, "so that I may pay my last respects to my brother without the added worry on my mind and the Lord will bless you with good health!" By that time the school term would be over, and before autumn he felt that he could find a new location.

The Court summoned the president of the Jewish society, who militantly protested his legal rights to take possession of the premises: "If he can't pay as much rent as us that's his tough luck." The Court conceded that, on strictly legal grounds, the teacher had no claim, but then added, "This is not a court of law but of conciliation, and we must see that *yosher* is done. Our interpretation of *yosher* in this instance is that you recognize this poor man's plight and grant him a time allowance." The president at first demurred. However, at length he softened and said, "Out of respect to the Court, I'll reopen the matter at our meeting this evening."

The next morning he informed the Court that an extension of two months' time had been granted, on condition that the present tenant pay his rent promptly and vacate the premises on a given date without further trouble. Ashkenasi gave way to tears of gratitude when told of the decision. Profusely thanking the Court and all parties concerned for their kindness, he exclaimed, "For this *mitzvah* a long life shall you have, and a seat in the holy place in the other world!" He was free to depart immediately on his sad mission. Upon his return he began to look for new quarters. Before the two months of grace had expired he succeeded in finding a suitable place.

Thus *yosher* triumphed and a poor man was saved from what, to him, represented a major calamity.

The Artistic Temperament

Mr. Sam Baron, a singing teacher, appeared before the Court with the following story: Several months ago, he had been hired by the Wilno Yiddish School to conduct rehearsals and train the pupils for musical programs. At the time that he came to an agreement with the school officials it was specifically stated that he was to retain his position for the entire school year of nine months. Nevertheless, this provision had not been put into writing. At the end of five months, he was dismissed summarily without explanation, other than that he had been hired only temporarily. But what touched Mr. Baron's pride particularly were stories being circulated by the president of the school. These rumors held that Baron had proved himself highly incompetent and had shown no results with the children. "When I hear these lies," he cried out in despair, "I don't know what to do. Pretty soon they'll so damage my reputation that I won't be able to earn a living."

The president of the school stated his position with great vehemence. "This *melamed* has the artistic temperament," he said. "He can't discipline anyone. Ask him if he didn't leave the children alone one day in the middle of a rehearsal because his temper got the best of him." For this and similar conduct, he maintained, the children had gradually quit attending rehearsals. As for Baron's claim that he had been hired for the entire school year, that was nonsense, since all the teachers in the building were working on a monthly basis. Did it seem logical that he would be employed on a yearly basis, especially since the whole musical project was of an experimental nature?

Further questioning of the president, however, brought out the fact that at the

time Baron had been engaged, the former had intimated that the job might be permanent throughout the year.

The Court weighed both sets of arguments, taking into consideration that Baron had suffered damages because he had dismissed several of his pupils in order to take the new position. The decision, then, was rendered as follows: The school was ordered to pay Baron's salary for two months, in return for which the teacher agreed to relinquish all claims against the school. In addition, the president of the school promised to forbear from making any more disparaging remarks about him.

"Above all," said the Court to the president, "cease your talk about this man. Remember, that loose talk is a two-edged weapon which may injure you as much as this teacher."

A Family Matter

For over ten years, Mr. Joseph Cohen, a patriarchal figure in his early seventies, had been living with his wife, his daughter, and his son-in-law. Although advanced in years, Mr. Cohen was still able to work as a cabinet maker and to earn fair sums of money. Both he and his son-in-law contributed to the upkeep of the joint household. They kept no account of the money expended by each.

There came a time when the son-in-law, whose family had expanded, moved into an apartment of his own. A greater economic burden was now placed upon Mr. Cohen, who, in view of the changed circumstances, resolved to open a small shop, in which he might ply his trade. With his wife's consent, he contracted for the purchase of a small house, part of which might serve as his shop. All that he lacked to consummate the deal was two hundred dollars.

Cohen then bethought himself of an insurance policy issued almost fifteen years ago, in which his wife was named as beneficiary. "If I can borrow enough on this policy," he thought to himself, "I can close the transaction without complications and all will be well." However, a diligent search of his effects revealed no trace of the policy. A panic seized him, for he could ill afford to break the contract which he had already signed and to lose the substantial deposit which he had made. Finally, as a last resort he sought the assistance of his son-in-law. Much to his surprise, the latter coolly stated, "I have the policy but I shall not give it to you to be used for the purpose of buying property."

Mr. Cohen came to the Jewish Court. The son-in-law appeared to defend himself. When asked on what grounds he retained the policy, he replied, "Grounds enough! The premiums for ten years were paid partly by the money I gave for living expenses. Besides, it's unwise for him to invest in the house. He can't earn enough money in ten years to justify the capital outlay." To which Cohen retorted, "I also paid on the premium. It is my business to say whether the property will yield a decent income. No son-in-law shall tell me what to do!"

A heated argument ensued, and, as often happens in family affairs, the discussion degenerated into a name-calling contest, With Mr. Cohen shrieking "thief" and the son-in-law countering with "old fool." The Court at length succeeded in restoring order and a calmer conversation then took place. It became apparent that the real objection of the son-in-law to relinquishnig the policy arose from the fear that Cohen would borrow the two hundred dollars from the insurance company and later be unable to repay it. Not only would he be required to pay seven per cent interest, but the amount of the loan would remain as a lien against the policy.

The Court therefore recommended that the policy remain in the possession of the son-in-law for the present (to insure against Cohen's borrowing on it) that Cohen continue to pay premiums, and that the son-in-law be named as a secondary beneficiary. In return, the latter should give Cohen the two hundred dollars which he required for investment in the property, but should demand no interest. "In this manner," said the Court,

"you will have your property and you, rather than the insurance company, the lien on the policy."

Cohen and his son-in-law nodded agreement and declared themselves satisfied with the judgment.

A Grave Business

"Galician swine, trying to cheat us on the dead!"

"Roumanian schnorrers! We don't owe you a cent!"

This exchange of insults might be heard one afternoon at a session of the Jewish Court, where representatives of Congregation Rodeph Sholom and of B'nai Jacob Congregation faced each other with demands for justice. Suit had already been filed against the latter in the circuit court. Only through the intervention of a third party had both groups been persuaded not to air their differences publicly, where two holy institutions might provide an amusing spectacle for a Gentile audience.

Fifteen years ago, the members of Congregation Rodeph Sholom had purchased a cemetery and had sold part of it to the other congregation who buried their dead in a separate corner of the plot. Each of the two parties agreed to share equally in the care and maintenance of the cemetery and the provision for a watchman. For thirteen years all went well; the agreement was carried out faithfully. Then Rodeph Sholom made certain repairs to the cemetery and B'nai Jacob refused to share the expense. Since then, there had been bad blood between them and public scenes, similar to the one now enacted before the Court, were very frequent. Threats had been made by people who had dear ones buried in the cemetery that they would remove the bodies elsewhere.

In arguing his case before the Court, the secretary of Rodeph Sholom produced an itemized bill of repairs to the cemetery, together with the original contract. Turning to his opponent, he said, "Here are the bills and here is the contract. The English is plain enough. You are to pay half." The president of the defendant group, a wrinkled old man, made answer: "We don't deny that these items are correct. But we don't feel we ought to pay. These weren't necessary repairs, but improvements. The contract says that we share only in necessary repairs. It doesn't say a thing about improvements. Anyhow, you didn't even tell us when you wanted to have the work done. There's no room for argument. This whole case ought to be dismissed."

But the secretary of Rodeph Sholom was not so easily put off: "All right, maybe we should have asked you. But the repairs were badly needed, and because you O. K.'d repairs before, we thought you wouldn't raise a fuss about it this time. You can hardly call an outside privy, a wall, or a chicken fence an improvement. They're absolutely necessary and therefore are only repairs."

As the arbitrators scanned the list of eight items, totalling $900, the spokesman for Rodeph Sholom agreed that his claim would be confined to the three major items amounting to $500. Regarding one item he said, "The old privy was so broken that we almost had an accident in it. There wasn't anything to do but build a new one." But the president protested that it was still usable and, besides, "We don't need the increased facilities in the new building." On the well, the plaintiff argued that the only water available was inconvieniently located on a neighboring lot, which the defendant, on the other hand, maintained could be reached easily. The question of the chicken fence the former settled thus: "I'd hate to look at those graves if we hadn't kept the hens from scratching there by fencing in the watchman's yard." And the president could only mutter in his beard: "Who needs a watchman? Nobody will steal the dead ones. *Gott za dank,* not many members have been dying lately and we can always get a gravedigger when there's a job to be done."

The Court considered the facts carefully. No one denied that certain work had been done. The point at issue remained whether the repairs were abso-

lutely necessary and therefore to be shared by both parties; or whether they were in the nature of improvements and not to be shared at all. In their decision the arbitrators said:

"Congregation Rodeph Sholom is entitled to half the cost of the chicken fence. Inasmuch as the caretaker was not paid a regular salary, but secured his living from the raising of chickens, as well as from grave-digging, fencing in the chicken enclosure was a proper part of the expense of a watchman provided for in the contract. On the question of the well, the Court also finds for the plaintiff. Jewish law requires that mourners cleanse their hands when leaving the *bet olam*. Water is needed on the premises and it was not unreasonable for the plaintiff to provide a well. As to the privy, it is reasonable to assume that a small, wooden structure, after having been exposed to the elements for fifteen years, required replacement, and that, in so doing, it was not unreasonable to provide added facilities therein. We therefore rule that Bnai Jacob Congregation pay to Congregation Rodeph Sholom the sum of $250, as their share of the repairs."

Then the Court added, "For your own future happiness, we would suggest that you both agree not to make a single expenditure over $25 without consulting the other party. Consult first and there will be no quarrel afterwards."

This decision satisfied both groups: the one because they had been vindicated in their principle that the repairs were justified and also received a substantial sum of money; the other, because they were called upon to pay only a portion of the original claim.

Thus, through this arbitration, harmony was restored in the two congregations. The loser ultimately carried out the terms of the award. And a dispute between two religious groups was not exposed to public scrutiny and possible ridicule.

A Book on the Jewish Festivals*

By Ben M. Edidin

THE American environment has played havoc with festival observance. The task of earning a living makes it almost impossible for the great majority to abstain from labor on the Sabbath and holidays. The general bareness of folk life in this country, due to rapid assimilation of immigrant groups, the undermining of family life, the encroachments of commercial entertainment, and similar causes, has militated against Jewish observance perhaps no less than have the economic conditions. Had religious sanction retained its former power, the decline would have proceeded much more slowly.

American Jewry's efforts to stem the tide have been far from vigorous. In fact, the two extreme wings, Reform Jewry and the so-called radical element, have consciously and unconsciously accelerated the process. While Yom Kippur balls have gone out of fashion some time ago, the left wing of American Jewry, represented by labor organizations and their organs, have looked upon the festivals as vestiges of the past hardly compatible with their socialist ideology. Reform Judaism, by laying all the emphasis on the ethical principle, has not only eliminated many folkways but has unconsciously deprecated this phase of Jewish life. The negative influence of Reform in this respect has undoubtedly been far greater than that of any other element, for Reform Jews constitute the upper economic class and, by virtue of their social status,

**The Jewish Festivals,* by Hayyim Schauss, Commission on Jewish Education, Union of American Hebrew Congregations, Cincinnati, 1938.

exert a tremendous influence on the middle classes as well as on the working masses.

The publication of a significant book on the Jewish festivals by the Union of American Hebrew Congregations as one of the first volumes in its adult education series, a book written by one who is actively affiliated with the Jewish labor movement, may be interpreted as a straw in the new wind blowing in both camps. This view is reinforced among other indications, by the evidence of an increasing number of Bar Mizvah ceremonies in Reform temples as well as among Jewish radicals. It must be stated, however, that, while the original Yiddish version of the book had to be printed and peddled privately by the author, probably because of lack of sponsorship by his group, the improved English edition has the official stamp and sales-agency of the Reform headquarters behind it. To this should be added another obesrvation—the meeting of the two extreme wings in Jewish life in this joint literary effort.

The volume itself is the best available on the subject in any but the German language. We have long waited for a book which would treat the festivals in a scientific manner, tracing their historical origins as far back as modern scholarship will permit; explaining the customs and ceremonies from the sociological as well as the religious point of view; and describing Jewish observance in ancient, medieval and modern times as folk life and as religious practice. Intelligent readers, including Jewish teachers, will welcome the copious "notes" which will reveal to many for the first time the classical sources of our knowledge about the festivals, as well as indicate the scholarly research which the author has sunk into the preparation of the volume.

The major holidays, the Sabbath, two of the minor festivals (Hanukah and Purim) and the fast days are generously and systematically treated. The chapter on the Sabbath, for example, takes us back to nomadic days, then to Palestine in the times of the First Commonwealth, then to Babylon with the exiles, back to Palestine, through the Talmudic era, into the diaspora with several Jewries, to modern times in Eastern Europe and in America. The Sabbath day passes before our eyes in a vivid manner from its earliest hypothetical beginnings, through the many centuries of its evolution in thought and custom, to its present critical status. Individual customs and ceremonies are described and explained in detail.

While in spots the treatment is unnecessarily repetitive, the sins of the book are largely those of omission rather than commission. This is particularly evident in the space alloted to Hamishah Asar Bishevat and Lag Baomer. Hamishah Asar receives a page and a half, relegated to the same inconsequence as the Fifteenth of Av, with which it is paired. This is obviously unrealistic and biased. The Fifteenth of Shevat has been widely observed by children, while in Oriental communities it has been a festive day for the whole family. In modern Palestine it is a significant national festival, marked by planting trees in every Jewish settlement and by impressive pageantry. As a symbol of the rejuvenation of the soil and flora of Palestine, it is celebrated widely also in the diaspora.

This bias against Palestine is evident throughout the book. Little is said about Sabbath in modern Palestine, about the new Hanukah celebrations, about the First Fruits ceremony in connection with Shavuot, about the gala Purim festivities and about other new forms of observance evolving in the ancient land. Palestine is the only place in the world where Jewish folk life is undergoing revitalization, and influences of the new development are slowly seeping through the diaspora. We wonder at the author who belongs to the Zionist wing of the Jewish labor movement. But the publishers, too, owe it even to their non-Zionist readers, in a book written from the scientific approach, to present a far more adequate description

of the new Jewish folk life being created in Palestine.

Not only is the new folk life in Palestine skipped over lightly, but the variations in customs among Jewish communities in parts of the world other than Lithuania and America do not receive adequate treatment. Information on comparative festivals and ceremonies among other peoples would have also enhanced the value of the book to the modern reader.

On the side of commission, space will permit the mention of only a few questionable points. Scholars will disagree with the author's theories regarding the origin of some of the festivals and customs. To deny with certainty any historical basis to Purim, for example, is questionable. The reader who rightly looks for inspiration in a volume of this sort will be irritated by pilpulistic explanations of customs which abound throughout the book. Others will wonder at such glosses of credit to Reform as the following: "In the past Shovuos was an unpretentious holiday and made few special demands for its observance. In our day this holiday has assumed a new importance in Reform and Conservative congregations owing to the Confirmation ceremony. . . ." The rest of the chapter, describing in full Shavuot throughout the ages, does not at all square with the first part of the quotation. Readers will also wonder at the archaic transliteration of Hebrew terms since the universal tendency is to use the Palestinian-Sephardic pronunciation.

"The Jewish Festivals" should find a place on every Jewish book shelf. Teachers, club leaders, parents, adult students and the general reader will find it a reliable and useful reference of information on the subject. As Jewish scholarship continues the search for explanation and interpretation of the festivals and folkways, a more inclusive and more inspiring volume will be written.